

1           **LOCAL GOVERNMENT AND LIMITED PURPOSE ENTITY**

2                           **REGISTRY AMENDMENTS**

3                                   2020 GENERAL SESSION

4   STATE OF UTAH

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6   **LONG TITLE**

7   **General Description:**

8           This bill amends provisions governing the local government and limited purpose entity  
9           registry.

10 **Highlighted Provisions:**

11       This bill:

- 12       ▶ requires the municipal recorder to register on behalf of the municipality;
- 13       ▶ requires the county recorder to register on behalf of the county;
- 14       ▶ requires certain nonprofit corporations to register within six months of the end of  
15       the nonprofit corporation's fiscal year;
- 16       ▶ enacts registration requirements for an operating charter school with affiliated  
17       satellite charter schools;
- 18       ▶ clarifies the time frame in which a local government entity or limited purpose entity  
19       is required to send notification of a change;
- 20       ▶ enacts language relevant to the registration of an entity that dissolves; and
- 21       ▶ makes technical and conforming changes.

22 **Money Appropriated in this Bill:**

23       None

24 **Other Special Clauses:**

25       None

26 **Utah Code Sections Affected:**

27 AMENDS:

28       **10-1-204**, as enacted by Laws of Utah 2018, Chapter 256

29       **17-15-31**, as enacted by Laws of Utah 2018, Chapter 256

30       **51-2a-201.5**, as last amended by Laws of Utah 2018, Chapters 256 and 415

31       **53G-5-404**, as last amended by Laws of Utah 2019, Chapters 83 and 293

32 **67-1a-15**, as last amended by Laws of Utah 2019, Chapter 416

33

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **10-1-204** is amended to read:

36 **10-1-204. Registration as a local government entity.**

37 (1) (a) Each municipality shall register and maintain the municipality's registration as a  
38 local government entity, in accordance with Section 67-1a-15.

39 (b) The municipal recorder shall register and maintain the registration on behalf of the  
40 municipality.

41 (2) A municipality that fails to comply with Subsection (1) or Section 67-1a-15 is  
42 subject to enforcement by the state auditor, in accordance with Section 67-3-1.

43 Section 2. Section **17-15-31** is amended to read:

44 **17-15-31. Registration as a local government entity.**

45 (1) (a) Each county shall register and maintain the county's registration as a local  
46 government entity, in accordance with Section 67-1a-15.

47 (b) The county recorder shall register and maintain the county's registration.

48 (2) A county that fails to comply with Subsection (1) or Section 67-1a-15 is subject to  
49 enforcement by the state auditor, in accordance with Section 67-3-1.

50 Section 3. Section **51-2a-201.5** is amended to read:

51 **51-2a-201.5. Accounting reports required -- Reporting to state auditor --**  
52 **Registration as a limited purpose entity.**

53 (1) As used in this section:

54 (a) (i) "Federal pass through money" means federal money received by a nonprofit  
55 corporation through a subaward or contract from the state or a political subdivision.

56 (ii) "Federal pass through money" does not include federal money received by a  
57 nonprofit corporation as payment for goods or services purchased by the state or political  
58 subdivision from the nonprofit corporation.

59 (b) (i) "Local money" means money that is owned, held, or administered by a political  
60 subdivision of the state that is derived from fee or tax revenues.

61 (ii) "Local money" does not include:

62 (A) money received by a nonprofit corporation as payment for goods or services

63 purchased from the nonprofit corporation; or

64 (B) contributions or donations received by the political subdivision.

65 (c) (i) "State money" means money that is owned, held, or administered by a state  
66 agency and derived from state fee or tax revenues.

67 (ii) "State money" does not include:

68 (A) money received by a nonprofit corporation as payment for goods or services  
69 purchased from the nonprofit corporation; or

70 (B) contributions or donations received by the state agency.

71 (2) (a) The governing board of a nonprofit corporation whose revenues or expenditures  
72 of federal pass through money, state money, and local money is \$1,000,000 or more shall cause  
73 an audit to be made of its accounts by an independent certified public accountant.

74 (b) The governing board of a nonprofit corporation whose revenues or expenditures of  
75 federal pass through money, state money, and local money is at least \$350,000 but less than  
76 \$1,000,000 shall cause a review to be made of its accounts by an independent certified public  
77 accountant.

78 (c) The governing board of a nonprofit corporation whose revenues or expenditures of  
79 federal pass through money, state money, and local money is at least \$100,000 but less than  
80 \$350,000 shall cause a compilation to be made of its accounts by an independent certified  
81 public accountant.

82 (d) The governing board of a nonprofit corporation whose revenues or expenditures of  
83 federal pass through money, state money, and local money is less than \$100,000 but greater  
84 than \$25,000 shall cause a fiscal report to be made in a format prescribed by the state auditor.

85 (3) A nonprofit corporation described in Section 51-2a-102 shall provide the state  
86 auditor a copy of an accounting report prepared under this section within six months of the end  
87 of the nonprofit corporation's fiscal year.

88 (4) (a) A state agency that disburses federal pass through money or state money to a  
89 nonprofit corporation shall enter into a written agreement with the nonprofit corporation that  
90 requires the nonprofit corporation to annually disclose whether:

91 (i) the nonprofit corporation met or exceeded the dollar amounts listed in Subsection

92 (2) in the previous fiscal year of the nonprofit corporation; or

93 (ii) the nonprofit corporation anticipates meeting or exceeding the dollar amounts listed

94 in Subsection (2) in the fiscal year the money is disbursed.

95 (b) If the nonprofit corporation discloses to the state agency that the nonprofit  
96 corporation meets or exceeds the dollar amounts as described in Subsection (4)(a), the state  
97 agency shall notify the state auditor.

98 (5) This section does not apply to a nonprofit corporation that is a charter school  
99 created under Title 53G, Chapter 5, Charter Schools. A charter school is subject to the  
100 requirements of Section 53G-5-404.

101 (6) A nonprofit corporation is exempt from Section 51-2a-201.

102 (7) (a) Each nonprofit corporation that receives an amount of money requiring an  
103 accounting report under this section shall register in accordance with Section 67-1a-15 within  
104 six months of the end of the nonprofit corporation's fiscal year and maintain the nonprofit  
105 corporation's registration as a limited purpose entity[~~in accordance with Section 67-1a-15~~]  
106 each year that the nonprofit corporation is required to prepare an account report under this  
107 section.

108 (b) A nonprofit corporation described in Subsection (7)(a) that fails to comply with  
109 Subsection (7)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in  
110 accordance with Section 67-3-1.

111 Section 4. Section **53G-5-404** is amended to read:

112 **53G-5-404. Requirements for charter schools.**

113 (1) A charter school shall be nonsectarian in its programs, admission policies,  
114 employment practices, and operations.

115 (2) A charter school may not charge tuition or fees, except those fees normally charged  
116 by other public schools.

117 (3) A charter school shall meet all applicable federal, state, and local health, safety, and  
118 civil rights requirements.

119 (4) (a) A charter school shall:

120 (i) make the same annual reports required of other public schools under this public  
121 education code, including an annual financial audit report; and

122 (ii) ensure that the charter school meets the data and reporting standards described in  
123 Section 53E-3-501.

124 (b) A charter school shall file the charter school's annual financial audit report with the

125 Office of the State Auditor within six months of the end of the fiscal year.

126 (5) (a) A charter school shall be accountable to the charter school's authorizer for  
127 performance as provided in the school's charter agreement.

128 (b) To measure the performance of a charter school, an authorizer may use data  
129 contained in:

130 (i) the charter school's annual financial audit report;

131 (ii) a report submitted by the charter school as required by statute; or

132 (iii) a report submitted by the charter school as required by its charter agreement.

133 (c) A charter school authorizer may not impose performance standards, except as  
134 permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully  
135 accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise  
136 provided in law.

137 (6) A charter school may not advocate unlawful behavior.

138 (7) Except as provided in Section 53G-5-305, a charter school shall be organized and  
139 managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its  
140 authorization.

141 (8) A charter school shall provide adequate liability and other appropriate insurance.

142 (9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase  
143 agreement, or other contract or agreement relating to the charter school's facilities or financing  
144 of the charter school's facilities to the school's authorizer and an attorney for review and advice  
145 prior to the charter school entering into the lease, agreement, or contract.

146 (10) A charter school may not employ an educator whose license has been suspended  
147 or revoked by the state board under Section 53E-6-604.

148 (11) (a) Each charter school shall register and maintain the charter school's registration  
149 as a limited purpose entity, in accordance with Section 67-1a-15.

150 (b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is  
151 subject to enforcement by the state auditor, in accordance with Section 67-3-1.

152 (c) If a charter school is an operating charter school with affiliated satellite charter  
153 schools, as defined in Section 53G-5-303:

154 (i) each affiliated satellite charter school is not required to register separately from the  
155 operating charter school; and

156 (ii) the operating charter school shall register on behalf of each affiliated satellite  
157 charter school, including entity registry submission information for each affiliated satellite  
158 charter school as required in Section 67-1a-15.

159 Section 5. Section **67-1a-15** is amended to read:

160 **67-1a-15. Local government and limited purpose entity registry.**

161 (1) As used in this section:

162 (a) "Entity" means a limited purpose entity or a local government entity.

163 (b) (i) "Limited purpose entity" means a legal entity that:

164 (A) performs a single governmental function or limited governmental functions; and

165 (B) is not a state executive branch agency, a state legislative office, or within the  
166 judicial branch.

167 (ii) "Limited purpose entity" includes:

168 (A) area agencies, area agencies on aging, and area agencies on high risk adults, as  
169 those terms are defined in Section 62A-3-101;

170 (B) charter schools created under Title 53G, Chapter 5, Charter Schools;

171 (C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

172 (D) conservation districts, as that term is defined in Section 17D-3-102;

173 (E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

174 (F) housing authorities, as that term is defined in Section 35A-8-401;

175 (G) independent entities and independent state agencies, as those terms are defined in  
176 Section 63E-1-102;

177 (H) interlocal entities, as that term is defined in Section 11-13-103;

178 (I) local building authorities, as that term is defined in Section 17D-2-102;

179 (J) local districts, as that term is defined in Section 17B-1-102;

180 (K) local health departments, as that term is defined in Section 26A-1-102;

181 (L) local mental health authorities, as that term is defined in Section 62A-15-102;

182 (M) nonprofit corporations that receive an amount of money requiring an accounting  
183 report under Section 51-2a-201.5;

184 (N) school districts under Title 53G, Chapter 3, School District Creation and Change;

185 (O) special service districts, as that term is defined in Section 17D-1-102; and

186 (P) substance abuse authorities, as that term is defined in Section 62A-15-102.

187 (c) "Local government and limited purpose entity registry" or "registry" means the  
188 registry of local government entities and limited purpose entities created under this section.

189 (d) "Local government entity" means:

190 (i) a county, as that term is defined in Section 17-50-101; and

191 (ii) a municipality, as that term is defined in Section 10-1-104.

192 (e) "Notice of failure to register" means the notice the lieutenant governor sends, in  
193 accordance with Subsection (7)(a), to an entity that does not register.

194 (f) "Notice of failure to renew" means the notice the lieutenant governor sends to a  
195 registered entity, in accordance with Subsection (7)(b).

196 (g) "Notice of noncompliance" means the notice the lieutenant governor sends to a  
197 registered entity, in accordance with Subsection (6)(c).

198 (h) "Notice of non-registration" means the notice the lieutenant governor sends to an  
199 entity and the state auditor, in accordance with Subsection (9).

200 (i) "Notice of registration or renewal" means the notice the lieutenant governor sends,  
201 in accordance with Subsection (6)(b)(i).

202 (j) "Registered entity" means an entity with a valid registration as described in  
203 Subsection (8).

204 (2) The lieutenant governor shall:

205 (a) create a registry of each local government entity and limited purpose entity within  
206 the state that:

207 (i) contains the information described in Subsection (4); and

208 (ii) is accessible on the lieutenant governor's website or otherwise publicly available;

209 and

210 (b) establish fees for registration and renewal, in accordance with Section 63J-1-504,  
211 based on and to directly offset the cost of creating, administering, and maintaining the registry.

212 (3) Each local government entity and limited purpose entity shall:

213 (a) on or before July 1, 2019, register with the lieutenant governor as described in  
214 Subsection (4);

215 (b) on or before one year after the day on which the lieutenant governor issues the  
216 notice of registration or renewal, annually renew the entity's registration in accordance with  
217 Subsection (5); and

218 (c) [~~within~~] on or before 30 days after the day on which any of the information  
219 described in Subsection (4) changes, send notice of the changes to the lieutenant governor.

220 (4) Each entity shall include the following information in the entity's registration  
221 submission:

222 (a) the resolution or other legal or formal document creating the entity or, if the  
223 resolution or other legal or formal document creating the entity cannot be located, conclusive  
224 proof of the entity's lawful creation;

225 (b) if the entity has geographic boundaries, a map or plat [~~establishing~~] identifying the  
226 current geographic boundaries of the entity, or if it is impossible or unreasonably expensive to  
227 create a map or plat, a metes and bounds description, or another legal description that identifies  
228 the current boundaries of the entity[~~, reasonable proof of the entity's geographic boundaries~~];

229 (c) the entity's name;

230 (d) the entity's type of local government entity or limited purpose entity;

231 (e) the entity's governmental function;

232 (f) the entity's website, physical address, and phone number, including the name and  
233 contact information of an individual whom the entity designates as the primary contact for the  
234 entity;

235 (g) names of the members of the entity's governing board or commission, managing  
236 officers, or other similar managers and the method by which the members or officers are  
237 appointed, elected, or otherwise designated;

238 (h) the entity's sources of revenue; and

239 (i) if the entity has created an assessment area, as that term is defined in Section  
240 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.

241 (5) Each entity shall include the following information in the entity's renewal  
242 submission:

243 (a) identify and update any incorrect or outdated information the entity previously  
244 submitted during registration under Subsection (4); or

245 (b) certify that the information the entity previously submitted during registration under  
246 Subsection (4) is correct without change.

247 (6) Within 30 days of receiving an entity's registration or renewal submission, the  
248 lieutenant governor shall:

- 249 (a) review the submission to determine compliance with Subsection (4) or (5);
- 250 (b) if the lieutenant governor determines that the entity's submission complies with
- 251 Subsection (4) or (5):
- 252 (i) send a notice of registration or renewal that includes the information that the entity
- 253 submitted under Subsection (4) or (5) to:
- 254 (A) the registering or renewing entity;
- 255 (B) each county in which the entity operates, either in whole or in part, or where the
- 256 entity's geographic boundaries overlap or are contained within the boundaries of the county;
- 257 (C) the Division of Archives and Records Service; and
- 258 (D) the Office of the Utah State Auditor; and
- 259 (ii) publish the information from the submission on the registry; and
- 260 (c) if the lieutenant governor determines that the entity's submission does not comply
- 261 with Subsection (4) or (5) or is otherwise inaccurate or deficient, send a notice of
- 262 noncompliance to the registering or renewing entity that:
- 263 (i) identifies each deficiency in the entity's submission with the corresponding statutory
- 264 requirement;
- 265 (ii) establishes a deadline to cure the entity's noncompliance that is the first business
- 266 day that is at least 30 calendar days after the day on which the lieutenant governor sends the
- 267 notice of noncompliance; and
- 268 (iii) states that failure to comply by the deadline the lieutenant governor establishes
- 269 under Subsection (6)(c)(ii) will result in the lieutenant governor sending a notice of
- 270 non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).
- 271 (7) (a) If the lieutenant governor identifies an entity that does not make a registration
- 272 submission in accordance with Subsection (4) by the deadline described in Subsection (3), the
- 273 lieutenant governor shall send a notice of failure to register to the registered entity that:
- 274 (i) identifies the statutorily required registration deadline described in Subsection (3)
- 275 that the entity did not meet;
- 276 (ii) establishes a deadline to cure the entity's failure to register that is the first business
- 277 day that is at least 10 calendar days after the day on which the lieutenant governor sends the
- 278 notice of failure to register; and
- 279 (iii) states that failure to comply by the deadline the lieutenant governor establishes

280 under Subsection (7)(a)(ii) will result in the lieutenant governor sending a notice of  
281 non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

282 (b) If a registered entity does not make a renewal submission in accordance with  
283 Subsection (5) by the deadline described in Subsection (3), the lieutenant governor shall send a  
284 notice of failure to renew to the registered entity that:

285 (i) identifies the renewal deadline described in Subsection (3) that the entity did not  
286 meet;

287 (ii) establishes a deadline to cure the entity's failure to renew that is the first business  
288 day that is at least 30 calendar days after the day on which the lieutenant governor sends the  
289 notice of failure to renew; and

290 (iii) states that failure to comply by the deadline the lieutenant governor establishes  
291 under Subsection (7)(b)(ii) will result in the lieutenant governor sending a notice of  
292 non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

293 (8) An entity's registration is valid:

294 (a) if the entity makes a registration or renewal submission in accordance with the  
295 deadlines described in Subsection (3);

296 (b) during the period the lieutenant governor establishes in the notice of  
297 noncompliance or notice of failure to renew during which the entity may cure the identified  
298 registration deficiencies; and

299 (c) for one year beginning on the day the lieutenant governor issues the notice of  
300 registration or renewal.

301 (9) (a) The lieutenant governor shall send a notice of non-registration to the Office of  
302 the Utah State Auditor if an entity fails to:

303 (i) cure the entity's noncompliance by the deadline the lieutenant governor establishes  
304 in the notice of noncompliance;

305 (ii) register by the deadline the lieutenant governor establishes in the notice of failure  
306 to register; or

307 (iii) cure the entity's failure to renew by the deadline the lieutenant governor establishes  
308 in the notice of failure to renew.

309 (b) The lieutenant governor shall ensure that the notice of non-registration:

310 (i) includes a copy of the notice of noncompliance, the notice of failure to register, or

311 the notice of failure to renew; and

312 (ii) requests that the state auditor withhold state allocated funds or the disbursement of  
313 property taxes and prohibit the entity from accessing money held by the state or money held in  
314 an account of a financial institution, in accordance with Subsections 67-3-1(7)(i) and  
315 67-3-1(10).

316 (10) The lieutenant governor may extend a deadline under this section if an entity  
317 notifies the lieutenant governor, before the deadline to be extended, of the existence of an  
318 extenuating circumstance that is outside the control of the entity.

319 (11) (a) An entity is not required to renew submission of a registration under this  
320 section if an entity provides a record of dissolution.

321 (b) The lieutenant governor shall include in the registry an entity's record of dissolution  
322 and indicate on the registry that the entity is dissolved.